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Secretariat

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Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations

The Secretary-General, for the purpose of ensuring that the Organization functions in an open, transparent and fair manner, with the objective of enhancing protection for individuals who report misconduct or cooperate with duly authorized audits or investigations, and in accordance with paragraph 161 (d) of General Assembly resolution 60/1, promulgates the following:

Section 1
General

1.1 It is the duty of staff members to report any breach of the Organization's regulations and rules to the officials whose responsibility it is to take appropriate action. An individual who makes such a report in good faith has the right to be protected against retaliation.

1.2 It is also the duty of staff members to cooperate with duly authorized audits and investigations. An individual who cooperates in good faith with an audit or investigation has the right to be protected against retaliation.

1.3 Retaliation against individuals who have reported misconduct or who have cooperated with audits or investigations violates the fundamental obligation of all staff members to uphold the highest standards of efficiency, competence and integrity and to discharge their functions and regulate their conduct with the best interests of the Organization in view.

1.4 Retaliation means any direct or indirect detrimental action recommended, threatened or taken because an individual engaged in an activity protected by the present policy. When established, retaliation is by itself misconduct.

Section 2
Scope of application

2.1 Protection against retaliation applies to any staff member (regardless of the type of appointment or its duration), intern or United Nations volunteer who:

(a) Reports the failure of one or more staff members to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances, the Financial Regulations and

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Rules, or the Standards of Conduct of the International Civil Service, including any request or instruction from any staff member to violate the above-mentioned regulations, rules or standards. In order to receive protection, the report should be made as soon as possible and not later than six years after the individual becomes aware of the misconduct. The individual must make the report in good faith and must submit information or evidence to support a reasonable belief that misconduct has occurred; or

(b) Cooperates in good faith with a duly authorized investigation or audit.

2.2 The present bulletin is without prejudice to the legitimate application of regulations, rules and administrative procedures, including those governing evaluation of performance, non-extension or termination of appointment. However, the burden of proof shall rest with the Administration, which must prove by clear and convincing evidence that it would have taken the same action absent the protected activity referred to in section 2.1 above.

2.3 The transmission or dissemination of unsubstantiated rumours is not a protected activity. Making a report or providing information that is intentionally false or misleading constitutes misconduct and may result in disciplinary or other appropriate action.

Section 3
Reporting misconduct through established internal mechanisms

Except as provided in section 4 below, reports of misconduct should be made through the established internal mechanisms: to the Office of Internal Oversight Services (OIOS), the Assistant Secretary-General for Human Resources Management, the head of department or office concerned or the focal point appointed to receive reports of sexual exploitation and abuse. It is the duty of the Administration to protect the confidentiality of the individual's identity and all communications through those channels to the maximum extent possible.

Section 4
Reporting misconduct through external mechanisms

Notwithstanding Staff Rule 101.2 (q), protection against retaliation will be extended to an individual who reports misconduct to an entity or individual outside of the established internal mechanisms, where the criteria set out in subparagraphs (a), (b) and (c) below are satisfied:

(a) Such reporting is necessary to avoid:

(i) A significant threat to public health and safety; or

(ii) Substantive damage to the Organization's operations; or

(iii) Violations of national or international law; and

(b) The use of internal mechanisms is not possible because:

(i) At the time the report is made, the individual has grounds to believe that he/she will be subjected to retaliation by the person(s) he/she should report to pursuant to the established internal mechanism; or

(ii) It is likely that evidence relating to the misconduct will be concealed or destroyed if the individual reports to the person(s) he/she should report to pursuant to the established internal mechanisms; or

(iii) The individual has previously reported the same information through the established internal mechanisms, and the Organization has failed to inform the individual in writing of the status of the matter within six months of such a report; and

(c) The individual does not accept payment or any other benefit from any party for such report.

Section 5
Reporting retaliation to the Ethics Office

5.1 Individuals who believe that retaliatory action has been taken against them because they have reported misconduct or cooperated with a duly authorized audit or investigation should forward all information and documentation available to them to support their complaint to the Ethics Office as soon as possible. Complaints may be made in person, by regular mail or by e-mail, by fax or through the Ethics Office helpline.

5.2 The functions of the Ethics Office with respect to protection against retaliation for reporting misconduct or cooperating with a duly authorized audit or investigation are as follows:

(a) To receive complaints of retaliation or threats of retaliation;

(b) To keep a confidential record of all complaints received;

(c) To conduct a preliminary review of the complaint to determine if (i) the complainant engaged in a protected activity; and (ii) there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation.

5.3 The Ethics Office will seek to complete its preliminary review within 45 days of receiving the complaint of retaliation.

5.4 All offices and staff members shall cooperate with the Ethics Office and provide access to all records and documents requested by the Ethics Office, except for medical records that are not available without the express consent of the staff member concerned and OIOS records that are subject to confidentiality requirements. Reports of the Joint Appeals Boards shall be routinely sent to the Ethics Office unless the appellant objects.

5.5 If the Ethics Office finds that there is a credible case of retaliation or threat of retaliation, it will refer the matter in writing to OIOS for investigation and will immediately notify in writing the complainant that the matter has been so referred. OIOS will seek to complete its investigation and submit its report to the Ethics Office within 120 days.

5.6 Pending the completion of the investigation, the Ethics Office may recommend that the Secretary-General take appropriate measures to safeguard the interests of the complainant, including but not limited to temporary suspension of the implementation of the action reported as retaliatory and, with the consent of the

complainant, temporary reassignment of the complainant within or outside the complainant's office or placement of the complainant on special leave with full pay.

5.7 Once the Ethics Office has received the investigation report, it will inform in writing the complainant of the outcome of the investigation and make its recommendations on the case to the head of department or office concerned and the Under-Secretary-General for Management. Those recommendations may include disciplinary actions to be taken against the retaliator.

5.8 If the Ethics Office finds that there is no credible case of retaliation or threat of retaliation but finds that there is an interpersonal problem within a particular office, it will advise the complainant of the existence of the Office of the Ombudsman and the other informal mechanisms of conflict resolution in the Organization.

5.9 If the Ethics Office finds that there is a managerial problem based on the preliminary review of the complaint or the record of complaints relating to a particular department or office, it will advise the head of department or office concerned and, if it considers it necessary, the Management Performance Board.

5.10 Where, in the opinion of the Ethics Office, there may be a conflict of interest in OIOS conducting the investigation as referred to in section 5.5 above, the Ethics Office may recommend to the Secretary-General that the complaint be referred to an alternative investigating mechanism.

Section 6
Protection of the person who suffered retaliation

6.1 If retaliation against an individual is established, the Ethics Office may, after taking into account any recommendations made by OIOS or other concerned office(s) and after consultation with the individual who has suffered retaliation, recommend to the head of department or office concerned appropriate measures aimed at correcting negative consequences suffered as a result of the retaliatory action. Such measures may include, but are not limited to, the rescission of the retaliatory decision, including reinstatement, or, if requested by the individual, transfer to another office or function for which the individual is qualified, independently of the person who engaged in retaliation.

6.2 Should the Ethics Office not be satisfied with the response from the head of department or office concerned, it can make a recommendation to the Secretary-General. The Secretary-General will provide a written response on the recommendations of the Ethics Office to the Ethics Office and the department or office concerned within a reasonable period of time.

6.3 The procedures set out in the present bulletin are without prejudice to the rights of an individual who has suffered retaliation to seek redress through the internal recourse mechanisms. An individual may raise a violation of the present policy by the Administration in any such internal recourse proceeding.

Section 7
Action against the person who engaged in retaliation

Retaliation against an individual because that person has reported misconduct on the part of one or more United Nations officials or cooperated with a duly

authorized audit or investigation of the Organization constitutes misconduct which, if established, will lead to disciplinary action and/or transfer to other functions in the same or a different office.

Section 8
Prohibition of retaliation against outside parties

Any retaliatory measures against a contractor or its employees, agents or representatives or any other individual engaged in any dealings with the United Nations because such person has reported misconduct by United Nations staff members will be considered misconduct that, if established, will lead to disciplinary or other appropriate action.

Section 9
Entry into force

The present bulletin shall enter into force on 1 January 2006.

(*Signed*) Kofi A. **Annan**
Secretary-General